

CUSTOMER NO.: 24498**Serial No. 10/584,686**

Response to Final Office Action dated 7/22/08

Response dated: 10/16/08

**PATENT
PD040005****REMARKS**

In the Final Office Action, the Examiner noted that claims 1-9, 12 and 13 are pending in the application and that claims 1-9, 12 and 13 stand rejected. By this response, claim 14 has been added, claim 13 has been cancelled and claim 1 is amended to more clearly define the invention of the Applicant.

In view of the amendments presented above and the following discussion, the Applicant respectfully submits that none of these claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102 or rendered obvious under the provisions of 35 U.S.C. § 103. Thus, the Applicant respectfully submits that all of these claims are now in allowable form.

Objections**A. Claims**

The Examiner objected to the Applicant's claim 13 as lacking unity with the invention originally claimed.

In response, the Applicant has cancelled claim 13 and has added claim 14 as a dependent claim of claim 1.

Having done so, the Applicant respectfully submits that the basis for the Examiner's objection of the Applicant's claim 13 has been removed and requests that the objection be withdrawn.

New claim 14 claims that an abnormal region is classified as belonging to a first group of types if the abnormalities of the detected signal are caused by the physical characteristics of the recording medium and as belonging to a second group of types if the abnormalities of the detected signal are caused by erroneous data. Support for the Applicant's claim 14 can be found throughout the Applicant's Specification and specifically on page 3, lines 22-26.

Rejections**A. 35 U.S.C. § 102**

The Examiner rejected the Applicant's claims 1-7, 9 and 12 under 35 U.S.C. § 102(b) as being anticipated by Kuhn et al. (U.S. Patent No. 5,485,444, hereinafter "Kuhn"). The rejection is respectfully traversed.

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"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)) (emphasis added).

The Applicant submits that Kühn (US 5485444) discloses a finger print detection mechanism for detecting a type of defect of an optical recording medium. A first type of defect is caused by a fingerprint and if this type of defect is detected, the user is informed (column 2, lines 38 – 46, column 6, lines 55 – 61). As a consequence, in case of the first type of defect, namely a fingerprint, the user is informed by means of a display (column 7, lines 15 - 21) and can remove the defect by cleaning the disc.

The Applicant submits that Kühn does not disclose nor gives a hint to make a jump over the abnormal region **perpendicular** to the track direction as taught and claimed by the Applicant. In contrast, Kühn discloses using data obtained during scanning along the track, that is to say, in parallel or in line with the track direction. Kühn discloses in column 3, lines 11 - 13 that "the high frequency signal detected from the optical information medium ... can be used to determine at least one cause of error". Therefore, Kühn proposes to scan along the track, because this is the case where a high frequency signal is present. While making a jump perpendicular to the track direction, no high frequency signal is present. The presence of a high frequency signal is also shown in Fig. 3 of Kühn's disclosure. As disclosed in column 7, lines 35 - 52, scratches and fingerprints lead to an attenuated high frequency signal, which might be below a given threshold value ($W1$, $W2$), but a high frequency signal is still present. As such, although **scanning along the track** is disclosed by Kühn, a **jump perpendicular to the track direction** is not disclosed by Kühn. As Kühn obtains a high frequency signal during the whole procedure, Kühn discloses a method which is applied to a rotating disc. Kühn's solution is only applicable to local defects, whereas the solution of the Applicant's invention is especially applicable to discs on which an abnormal region is extended to a whole track or a large fraction of a track.

More specifically, making a jump perpendicular to the track direction as taught and claimed by the Applicant has the advantage that a valid track is found soon without scanning the whole invalid tracks. Further, Kühn's teaching is applicable to finger prints. Finger prints or likewise defects are usually spots having approximately the same length and width. Tracking can be maintained during scanning over such a

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defect in track direction. In addition, making a jump over this kind of defect region perpendicular to the track direction is disadvantageous.

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